

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ FEB 27 2006 ★

BROOKLYN OFFICE

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LENNY ABREU,

Plaintiff,

v.

THE CITY OF NEW YORK,

DET. DANIEL TORO, Shield No. 3664,

Individually and in his Official Capacity,

P.O.s "JOHN DOE" #1-10 Individually

and in their Official Capacities (the

name John Doe being fictitious as the

true names are presently unknown),

Defendants.

No. 04-CV-1721 (JBW)

MEMORANDUM, ORDER  
AND JUDGMENT

Appearances:

For Plaintiff:

Jon L. Norinsberg

New York, New York

For Defendants:

Corporation Counsel for the City of New York

Law Department

New York, New York

By: Hillary A. Frommer



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investigations of a robbery. There is no allegation of physical abuse. Plaintiff can produce no motive for the alleged fabrication. The victim identified plaintiff by name as his assailant and later identified him in both a photo array and a lineup. The grand jury properly returned an indictment. After a full and fair trial, plaintiff was acquitted on all charges. On the record before the court, the motion must be granted.

The allegation that an officer has fabricated evidence is serious. That plaintiff spent an extended period in jail for a crime of which he has been acquitted is troubling; it is not unusual. *See* Bureau of Justice Statistics, *Compendium of Federal Justice Statistics* 54 (2003) (average period of pretrial detention for robbery suspects who could not afford to make bond was 165.5 days). Bail is sometimes properly set high, or denied, for those who pose a serious risk of flight or threat to the community. Even modest bail may prevent many defendants from securing their release pending trial. *See* Vera Institute of Justice, *Foreword, Bail Bond Supervision in Three Counties* (1995) (“[P]ersonal wealth determined whether someone detained on a relatively low bail amount would be held in jail until their case ended or would be able to post bail and remain free.”). Absent proof of official misconduct, lengthy pre-trial detention not deliberately caused by acts of a police officer does not provide a basis for relief under Section 1983.

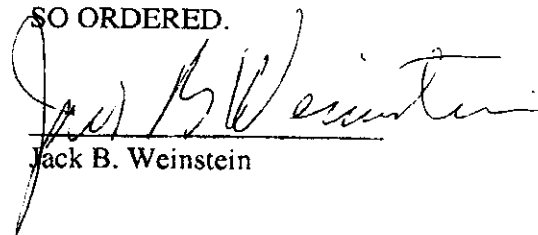
### **III. Conclusion**

The motion for summary judgment by Detective Daniel Toro is granted. Claims against the City are withdrawn. Plaintiff has not pressed his claims against the unnamed officers; the

motion for summary judgment on all claims against them is granted.

The case is dismissed. Costs and fees are granted to Daniel Toro.

SO ORDERED.

  
Jack B. Weinstein

Dated: February 22, 2006  
Brooklyn, New York

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*Judgment is hereby  
entered.*

*Date: Brooklyn, New York  
February 28, 2006*

ROBERT C. HEINEMANN  
CLERK OF COURT